

REMARKS

The Office Action mailed May 18, 2004 has been reviewed and carefully considered. Applicant appreciates the interview granted to Susan Paik by the Examiner on July 22, 2004 for discussion of preliminary remarks regarding proposed claim amendments and distinguishing features of the present invention from the cited reference. Based on the interview, the Applicant has amended independent claims 1, 12 and 22 to further highlight the differences from Coley in a sincere effort to further the case.

Claims 1-32 are pending in the present application. Claims 1, 4, 12, 14, 22 and 26 have been amended. Applicant notes claim 26 has been amended to correct a typographical error (to add a period at the end of the sentence). New claims 30-32 have been added. No new matter has been added by the amendments. Reconsideration of the objections and rejections set forth therein is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-29 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0161718 to Coley et al. (hereinafter Coley). Applicant respectfully traverses this rejection for the reasons herein and submits that the invention as claimed is unobvious over the cited reference.

The independent claims 1 and 12 have been amended to recite, *inter alia*:

"...wherein said time-based software **requests user information including an amount of time requested by the user for using said time-based software** and submits said user information to an authentication server through a network; ... the authentication server activating the time-based software for an amount of time approved."

Independent claim 22 has been amended to recite, *inter alia*:

"...a time-based software loaded onto a client machine **which requests user information from a user including an amount of time requested by the user for using said time-based software**;

and an authentication server for receiving said user information ... wherein if the user is approved, the authentication server activates the time-based software for an amount of time approved."

The Examiner has cited Coley and alleges that Coley teaches all of the claimed subject matter. Applicant respectfully disagrees with the rejection.

Coley involves a system for tracking use of software and determining whether the software is validly licensed and enabling or disabling the software accordingly via a wireless or wired network. As shown in e.g., FIG. 1, this is achieved by attaching a licensing system module (i.e., client module) 108 to a software application 102. The licensing module transparently forms a license record inquiry message which is transparently sent to a database over, e.g., the Internet 116 to determine whether a valid license record exists in the database 112 for the software application. Such database 112 stores records of valid licenses and is contained in a license server 110, which is typically maintained by the software provider. The database 112 forms and returns a response message to the licensing system module 108, which then either enables or disables the software accordingly. *See* e.g., Abstract and page 4, paragraph 0041.

After careful reading of Coley, Applicant respectfully believes that reliance on Coley is misplaced. One of the primary objects of Coley is for automated monitoring and policing of software usage to prevent software from being copied, pirated, or otherwise used without authorization; to achieve this, Coley's system is designed to, and indeed seeks to operate independent of any user input. In fact, not only does Coley fail to disclose requesting user input regarding any desired time usage of software, essentially as claimed in independent claims 1, 12 and 22, but Coley unequivocally **teaches away** from requiring any user input or even user notification as evidenced by its statement on page 3, paragraph 0020, namely that:

"[c]ommunication between the computer and the licensing server is generally **transparent** to a

user. That is, the client module automatically forms a connection with the license server, sends a message and receives a response, **all without user input or notification.**" Thus, in Coley, the software approval process/license validity check is executed and proceeds entirely without either the user's knowledge or request. Therefore, aside from failing to disclose or suggest the subject matter of claims 1, 12 and 22, Coley in fact teaches away from claims 1, 12 and 22.

The Applicant refers to paragraph 0048 and notes that any communication with the user in Coley is prompted **only if a license ID is not found.** See e.g., paragraph 0048, lines 3-8, lines 12-16. Even then, the user is simply prompted to assess if, e.g., a demonstration period for software use is desired, or to contact a sales representative to purchase a license. No user input regarding an amount of time desired for software use is requested.

The Office Action cites paragraphs 0049, 0050 and 0051 as teaching e.g., activating time-based software for an amount of time approved. However, the Applicant points out, with respect, that paragraph 0049 states the timer disclosed in Coley is simply used for **periodic checking of the software's license validity.** Such a validity check is automatically initiated when the timer expires. Therefore, the reference to a "timer" in Coley simply refers to the amount of time in between the automatic license validity checks. Such feature is consistent with Coley's focus on maintaining control/management of the use of its software by the software provider/designer; indeed, even the frequency and timing for performing a license validation check is selected according to the discretion of the software application designer, not the user. See e.g., page 5, paragraph 0046, lines 3-5.

In stark contrast, the time-based software according to the present invention requests and requires from a user an **amount of time desired for using the software.** Thus, the present invention instead embraces a user-based software use/management system in which it is the user

who dictates for what amount of time and when software is desired to be used. This is in direct contrast to systems such as in Coley, in which a license expires after a set period of time and must be renewed periodically for the software to be used - the period of time for which the software license may be renewed is wholly determined by the software provider.

Advantageously, the present invention permits the user to personally manage/budget the amount of time desired to use the software by requesting and processing user input for an amount of time desired and authorizing software use based solely on: 1) authentication of the user's identity and, 2) the amount of time a user has left in his account, *not* according to any pre-specified block of time the software may be valid. As a result, the present invention's user authorization process determines if the user is approved to access software regardless of *when* (i.e., independent of the time or date) such request is made. Indeed, the important object of this invention is its use of an 'accounting record' to authorize software use - as opposed to Coley's system which instead rely on a record of access for an usage authorization.

To illustrate: a record of access, as in Coley's teaching, includes information about who (user identity), where (location), and **when** (specific time and date) an attempt/request was made to use the software. What's critical in systems such as Coley is the specific time point (time and date) at which an access request is made and a specific time point that is used as a reference point (e.g., an expiration date) to determine an usage eligibility and thus an authorization decision on access acceptance or rejection. Such reference point is paramount to determine whether a user may access the software; if the user is outside the 'expiration date' the user will be denied. Authorization is then based on comparing the time and date of access request with the

reference time point. Authorization based on the record of access does not concern itself, nor does it rely on, the amount of time software is used.

In contrast: in the present invention, authorization is based on an accounting record, which includes information about who (user identity), where (location), and the actual amount of time of software usage is desired and actually used. Any remaining "allowable budget" (e.g., in time units) for a user is calculated after each software access. In addition, this invention includes an authentication server which maintains a database of accounting records that include information pertaining to the remaining 'allowable budget' (i.e., a time-wise account balance) of each legitimate user. What's critical here is the amount of time for software usage requested by a user in an access request and the "allowable budget" (e.g., in terms of time units) remaining in the user's account. A decision on an authorization is then made based on whether the access request (including the amount of time of usage) is within the limit of the allowable budget.

Note that in Coley, a system clock is typically relied on to compare the time and date of a software licensing validity check with e.g., a software 'expiration date'. The validity check is thus transparent to a user and requires no specific input from a user about the time and date. In the present invention, however, a user will be responsible for interacting with the system to provide the desired/intended amounts of time for software usage at each access request. Advantageously, a user can request different amounts of time for software usage at each access request. To further facilitate the personal time budgeting/ management feature for software use, the present invention even includes a time-credit feature which permits the user to credit any unused time back to the user's account.

As per the interview of July 22, 2004 Applicant acknowledges the Examiner's reference to the last sentence of paragraph 0095 on page 11, which recites: "For a commercial client, a

software provider can monitor the activation and use of client application features and bill the client accordingly." After careful reading the Applicant respectfully notes, however, that the term "client application features" refers to e.g., different levels of operating capability in a software application. *See* e.g., paragraph 0095, lines 1-8. In other words, this aspect of Coley simply refers to a system which can be used to enable or disable particular features in a software application. This bears no relation to a "time-based" software. Again, no request for user time input, much less any time-management/budgeting feature as in the present invention is disclosed, implied or suggested by Coley.

Accordingly, claims 1, 12 and 22 are believed to be patentable and nonobvious over Coley for at least the reasons stated above. Claims 2-11 and 30, 13-21 and 31, and 23-29, 32 depend either directly or indirectly on claims 1, 12 and 22, respectively, and as such, the dependent claims are believed to be patentable and nonobvious for at least the reasons given above for claims 1, 12 and 22.

For at least all of the above reasons, withdrawal of all the rejections under 35 U.S.C. §102(e) and early allowance of pending claims 1-32 on the merits is respectfully requested.

CONCLUSION

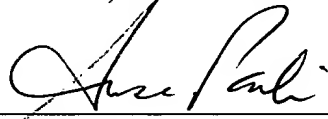
In view of the foregoing amendments and remarks, it is respectfully submitted that claims 1-32 are patentable and nonobvious over the cited reference. Consequently, the Applicant respectfully requests reconsideration and withdrawal of the rejections and allowance of the application. Such early and favorable action by the Examiner is earnestly solicited.

Should the Examiner believe that a telephone or personal interview may facilitate resolution of any remaining matters, the Examiner is invited to contact the Applicant's undersigned attorney.

A check for \$27.00 is enclosed to cover the amount due for the three (3) additional dependent claims added. It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's representatives Deposit Account No. 50-1433.

Respectfully submitted,
KEUSEY, TUTUNJIAN & BITETTO, P.C.

Dated: 8/17/04



Susan Paik
Reg. No. 46,347

MAILING ADDRESS:

14 Vanderventer Avenue, Suite 128
Port Washington, New York 11050
TEL: (516) 883-3868
FAX: (516) 883-3869